IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 4851 of 2002

Between:

The Depot Manager, APSRTC,

Jangareddygudem, West Godavari District.

..... PETITIONER

AND

1 Samarla Koteswara Rao, S/o late Sri Ramulu,

Ex.Leading Hand, Jangareddygudem, Western

Street, Gajulavari street, Eluru (PO),

West Godavari District.

2 Industrial Tribunal-cum-Labour Court, Guntur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Certiorari calling for the records relating to the award in I.D.No.328 of 1998, dated 13.03.2001 on the file of the Labour Court, Guntur, Guntur District and quash the same as arbitrary and illegal.

Counsel for the Petitioner: MR.R.MANMADHA REDDY (SC FOR APSRTC)

Counsel for the Respondent No.1: MR.P.V.KRISHNAIAH

Counsel for the Respondent NO.2: NONE APPEARED

The Court made the following:

ORDER:

Heard Sri R.Manmadha Reddy, learned Standing Counsel appearing for the petitioner-Corporation and Sri P.V. Krishnaiah, learned Counsel appearing for the contesting first respondent.

The petitioner-Corporation filed this writ petition assailing the award passed by the second respondent herein in I.D.No.328 of 1998 dated 13-3-2001, whereunder the first respondent was directed to be reinstated into service with full backwages and all attendant benefits.

According to the petitioner, the first respondent, who was working as leading hand, was caught red-handed on 24-11-1995 while attending to commit theft of a cable wire of copper leads of 2 to 5 meters from Electrical Section. After conducting an enquiry, the first respondent was removed from service *vide* order dated 29-08-1986. Challenging the same, the first respondent preferred an appeal, which was rejected *vide* proceedings dated 06-01-1997. However, the first respondent sought reference under Section 2-A (2) of the Industrial Disputes Act and the same was taken on file as I.D.No.328 of 1998. Surprisingly, during the course of the enquiry before the second respondent, no evidence has been produced from either side. Therefore, by taking into consideration the submissions made on either side, the second respondent recorded a finding that there was no evidence on record to show that the copper wire was found to be in possession of the first respondent and the same was lost from the very section as the concerned electrician could not in fact identify the same. In the absence of any such evidence, the second respondent held that there cannot be any finding on the charges framed against the first respondent, and set aside the order of removal dated 29-8-1996 and directed payment of wages to the first respondent from the date of termination till the date of attaining superannuation with all attendant benefits.

Considering the submissions made on either side and also on perusal of the entire

material available on record, the only question which arises for consideration in this writ petition is as to whether in the facts and circumstances of the case, the removal of the first respondent is justified.

Admittedly, the first respondent has been working with the petitioner and at the relevant point of time, he was working as leading hand. According to the petitioner, the first respondent was caught red-handed on 24-11-1995 while attending to commit theft of copper wire. During the course of enquiry, much appears to have been stated against the first respondent, but subsequent to the reference of the dispute to the second respondent, no attempt was made by the petitioner to produce any evidence to substantiate either the allegations made against the petitioner or with regard to the act of catching the first respondent by the security officials etc. In the absence of any such evidence available on record, the second respondent has rightly held that there is nothing to prove the charges framed against the first respondent and set aside the impugned order.

In view of the aforesaid reasons, especially in the absence of any material forthcoming on behalf of the petitioner for which there has been no explanation even in this writ petition, I do not find any merits in the writ petition, which is accordingly dismissed. There shall be no order as to costs.

06-04-2005

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To

1 The Presiding Officer, Industrial Tribunal-cum-Labour Court, Guntur

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